

*City of Las Vegas*

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: SEPTEMBER 13, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-23582 - APPLICANT/OWNER: RAUL GIL**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

**Planning and Development**

1. Conformance to the conditions for Rezoning (ZON-23579), Special Use Permit (SUP-23583), Variance (VAR-23580) and Site Development Plan Review (SDR-23577) if approved.
2. This approval permits a deviation from Title 19.08.050 development standards for a C-2 (General Commercial) zoning district to allow a seven-foot side setback at the northern property line and a 15-foot rear setback at the western property line where a side yard setback of 10 feet and rear yard setback of 20 feet would otherwise be required.
3. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This request is for a Variance to allow deviations from standards for setbacks for a proposed conversion of residential buildings and zoning for commercial use on 0.34 acres at 305 and 311 North 11<sup>th</sup> Street. Specifically, this application requests deviations to allow a rear setback of 15 feet where 20 feet is the minimum required and a side yard setback of seven feet where 10 feet is required in the proposed C-2 (General Commercial) zoning district. This request is in addition to a Variance (VAR-23580) to allow a deviation from the required number of parking spaces.

The applicant indicates that the existing buildings will be converted to accommodate a Food Processing use. Due to the self-imposed hardship inevitably created by the intensity of the proposed development on the site, denial of this request is recommended.

**BACKGROUND INFORMATION**

| <b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b> |   |
|---|---|
| 09/13/07  | Companion items for a Rezoning (ZON-23579), a Variance (VAR-23580), a Special Use Permit (SUP-23583), and a Site Development Plan Review (SDR-23577) will be heard concurrently with this item.   |
| <b><i>Related Building Permits/Business Licenses</i></b>                  |   |
| 01/01/51  | A business license, A07-00254, for an Apartment House category license was issued by the Department of Finance and Business Services. Due to a change of classification this license was re-issued on 10/01/98. This license was marked out-of-business as of 05/10/07. * |
| 01/26/07  | A building permit application, plan check 80550-C-07, for the 6.5-foot high ortemental iron wall was submitted for the site. The permit was reviewed and issued the same day. This permit has not received a final inspection approval as of 08/28/07.                    |
| 03/07/07  | A set of building permit applications, plan check L-0768 through 0771-07, for the internal wall demolition was submitted for the site. The permits were issued on 03/12/07 and was recorded as complete on 07/12/07.  |
| <b><i>Pre-Application Meeting</i></b>                                     |   |
| 06/13/07  | A pre-application meeting was held and elements of this application were discussed. Landscaping requirements, necessary waiver requests, and various Public Works concerns were talked about. Submittal requirements were discussed.                                      |
| <b><i>Neighborhood Meeting</i></b>  |   |
| A neighborhood meeting is not required, nor was one held.                 |   |

\* This license was issued with no apparent Planning and Development Department review.

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| <b>Field Check</b> |  |
|--------------------|--|
| 08/13/07           | The Department of Planning and Development conducted a site visit that found that the site was developed with a multifamily building on each lot. The building to the south (305 South 11 <sup>th</sup> Street) appeared to have been gutted and no windows were evident. There is an existing wrought iron fence around the three parcels at the south end of the block, which includes the two project site parcels. |

| <b>Details of Application Request</b> |      |
|---------------------------------------|------|
| <b>Site Area</b>                      |      |
| Net Acres                             | 0.34 |

| <b>Surrounding Property</b> | <b>Existing Land Use</b>  | <b>Planned Land Use</b> | <b>Existing Zoning</b>  |
|-----------------------------|---------------------------|-------------------------|---|
| Subject Property            | Multi-Family Residential  | MXU (Mixed Use)         | R-4 (High Density Residential) [Proposed: C-2 (General Commercial)] |
|                             | Multi-Family Residential  | MXU (Mixed Use)         | C-2 (General Commercial)  |
| North                       | Multi-Family Residential  | MXU (Mixed Use)         | R-4 (High Density Residential)                                      |
| South                       | Multi-Family Residential  | MXU (Mixed Use)         | C-2 (General Commercial)  |
| East                        | Senior Citizen Apartments | MXU (Mixed Use)         | R-4 (High Density Residential)                                      |
| West                        | Multi-Family Residential  | MXU (Mixed Use)         | R-4 (High Density Residential)                                      |

| <b>Special Districts/Zones</b>                    | <b>Yes</b> | <b>No</b> | <b>Compliance</b> |
|---|------------|-----------|-------------------|
| <b>Special Area Plan</b>                          |            |           |                   |
| Redevelopment Plan Area                           | X          |           | Y                 |
| <b>Special Districts/Zones</b>                    | <b>Yes</b> | <b>No</b> | <b>Compliance</b> |
| <b>Special Purpose and Overlay Districts</b>      |            | X         | n/a               |
| <b>Trails</b>                                     |            | X         | n/a               |
| <b>Rural Preservation Overlay District</b>        |            | X         | n/a               |
| <b>Development Impact Notification Assessment</b> |            | X         | n/a               |
| <b>Project of Regional Significance</b>           |            | X         | n/a               |

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**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08, the following development standards apply:*

| <b><i>Standard</i></b>          | <b><i>Required/Allowed</i></b> | <b><i>Provided</i></b> | <b><i>Compliance</i></b> |
|---------------------------------|--------------------------------|------------------------|--------------------------|
| Min. Lot Width                  | 100 Feet                       | 100 Feet               | Y *                      |
| Min. Setbacks                   |                                |                        |                          |
| • Front                         | 20 Feet                        | 21 Feet                | Y                        |
| • Side                          | 10 Feet                        | 7 Feet                 | N **                     |
| • Corner                        | 15 Feet                        | n/a                    | n/a                      |
| • Rear                          | 20 Feet                        | 15 Feet                | N **                     |
| Min. Distance Between Buildings | n/a                            | 20 Feet                | n/a                      |
| Max. Lot Coverage               | 50%                            | 33%                    | Y                        |
| Max. Building Height            | n/a                            | 20 Feet                | n/a                      |
| Trash Enclosure                 | Screened and Covered           | Screened and Covered   | Y                        |
| Mech. Equipment                 | Screened                       | Screened               | Y                        |

\* The total lot width after the parcels are combined will equal 100 feet. A condition of approval has been added to the Site Development Plan Review (SDR-23577) that, if approved, the two parcels must be combined either through a reversionary map or an administrative joining.

\*\* If approved, this variance would allow a rear setback of 15 feet where 20 feet would be required and a side yard setback of seven feet where 10 feet is required.

| <b><i>Deviations from Standard</i></b> | <b><i>Required/Allowed</i></b> | <b><i>Provided</i></b> | <b><i>Percent Deviation</i></b> |
|--|--------------------------------|------------------------|---------------------------------|
| Min. Setbacks                          |                                |                        |                                 |
| • Rear                                 | 20 Feet                        | 15 Feet                | 25% Reduction                   |
| • Side                                 | 10 Feet                        | 7 Feet                 | 30% Reduction                   |

**ANALYSIS**

The subject site is located on the Southeast Sector Map of the General Plan. The site is designated as MXU (Mixed Use) on the Redevelopment Plan Area Map of the General Plan. This category allows for a mix of uses that are normally allowed within the L (Low Density Residential), ML (Medium Low Density Residential), M (Medium Density Residential), H (High Density Residential), O (Office), SC (Service Commercial), and GC (General Commercial)

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Master Plan land use categories. The project proposes to convert the two existing multifamily residential buildings into a Food Processing use within 5,100 square feet of total building area on the 0.34 acre project site. The proposed Food Processing use is permissible under the MXU (Mixed Use) designation.

There is a Rezoning (ZON-23579) that proposes to change a portion of the project site's zoning from R-4 (High Density Residential) to C-2 (General Commercial). The existing and proposed C-2 (General Commercial) zoning district is designed to provide the broadest scope of compatible services for both the general and traveling public. This category allows retail, service, automotive, wholesale, office and other general business uses of an intense character, as well as mixed-use developments. This district should be located away from low and medium density residential development and may be used as a buffer between retail and industrial uses. The proposed use for this location is conditional, in a C-2 (General Commercial) zoning district which is compatible with the MXU (Mixed Use) General Plan designation. In this case the approval of a Special Use Permit (SUP-23583) is needed as the condition requiring a retail component is not met.

The site encompasses two parcels intended to become one development for the processing of food. Should these parcels remain separate developments the site may be placed further out of conformance with the development standards for the C-2 (General Commercial) zoning district as relates to minimum lot width. For this reason a condition has been added to the Site Development Plan Review (SDR-23577) that prior to the issuance of any building or grading permits that a reversionary parcel map or administrative joining consolidating the parcels be recorded.

This variance has been submitted in conjunction with a Rezoning (ZON-23579) to change the R-4 (High Density Residential) portion of the site into a C-2 (General Commercial), Site Development Plan Review (SDR-23577) for a proposed conversion of two existing residential structures for commercial use; a Special Use Permit (SUP-23583) to allow a Food Processing use with no accompanying retail use; and a Variance (VAR-23580) to allow a deviation from parking standards.

In addition to the deviations from development standards for setbacks addressed here, the project as proposed requires several landscape related waivers and deviations from parking standards. Staff is recommending denial on both the Site Development Plan Review (SDR-23577) and Variance (VAR-23580) due to the extent of the waiver requests and the self-imposed hardship generated by the proposed project.

The proposed setback of 15 feet on the western side of the site does not meet the 20-foot setback requirement, a reduction of 25 percent, of the C-2 (General Commercial) District nor does the proposed setback of seven feet on the northern side of the site meet the 10-foot setback requirements, a reduction of 30 percent. Staff is not in support of this variance request as this is a self-imposed hardship and therefore does not meet the criteria for granting a variance.

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**FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by exceeding the capacity of the site to meet development standards by trying to convert structures from the 1940’s that were intended for residential use to commercial activity. A less intensive development would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 9

**SENATE DISTRICT** 3

**NOTICES MAILED** 166 (Mailed with ZON-23579 and VAR-23580)

**APPROVALS** 0

**PROTESTS** 3